

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

v.

MICHELLE HARRIS,
Defendant

Criminal No. 03-72

Order

CONTI, District Judge.

AND NOW, this 14th day of August, 2007, defendant Michelle Harris (“defendant Harris”) has filed a pro se motion seeking that this court make available transcripts from court proceedings in the above-entitled case and asserting that she is unable to obtain them through her court-appointed counsel and that without them she will be unable to prepare a section 2255 motion. (Doc. No. 891). The Government has filed a Response in Opposition arguing that defendant Harris’ motion should be denied because the plain language of 28 U.S.C. § 753(f) provides that a section 2255 petitioner is not entitled to transcripts free of cost until the petitioner has filed a section 2255 motion, citing United States v. Horvath, 157 F.3d 131, 132-33 (2d Cir. 1998) (holding that a motion for a free transcript pursuant to section 753(f) is not ripe until a section 2255 motion has been filed). (Doc. No. 892).

The Government is correct. Defendant Harris’ motion for transcripts is hereby DENIED WITHOUT PREJUDICE to her ability to file a motion for transcripts if she files a section 2255 motion.

By the court:

/s/ Joy Flowers Conti
Joy Flowers Conti
United States District Judge

cc: Counsel of Record

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